

# **Measuring Impact: The Next and Necessary Challenge for the Juvenile Justice System**

## **Background**

The history of this nation's juvenile justice system dates back to the 1899 Illinois legislative assembly. That state adopted statutory policy authorizing the creation of the first juvenile court. The impetus for the formation of this court sprung from concern of civic leaders that children were being molested and abused in the Cook County adult jail. The new juvenile court's role was to issue decisions in the "best interests of the child" consistent with the interests of the "public". While the duty to make decisions within the public's interest was concomitant with the "best interest of the child" duty, the court, in practice and in reputation, became a "best interests of the child" court. This policy flourished throughout the country and by 1916 some 35 states had adopted separate legislation authorizing juvenile courts under what many states regarded as the "Children's Code". All states had a form of the "Children's Code" in place by 1950.

Between 1950 and 1970, states interpreted the best interests of the child clause very broadly and a variety of practices began springing up. The practices caused many legal scholars to criticize the vagueness of the parameters of "best interests of the child" charge. For example, in many places not only were juveniles being incarcerated for commission of status offenses, they were being incarcerated in adult jails for status offenses.

In 1974, the United States Congress passed federal legislation authorizing the establishment of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The Office was formed to assist states in the development of policies and programs that were protective of young people involved in the justice system and furthered public safety by preventing delinquency and reducing youth crime.

In 1977, the OJJDP launched its largest program initiative, the Juvenile Restitution Project. This project recognized that it was critically important to incorporate the concept of accountability into the nation's juvenile justice system. Further, the Project held that accountability was best defined as offenders being required to pay back, such as: paying back victims who suffered losses and paying back the community whose sense of safety was diminished by the commission of the youth's crimes.

Interestingly, in some circles and in some state statutes, restitution had previously been deemed a punitive measure. Since there was no place for punishment in a system committed to the best interests of the child, restitution had been previously restricted from dispositional orders.

OJJDP hosted several national forums to make the case that becoming accountable for one's wrongdoing was in fact in the best interests of both the child and the public. Therefore, restitution should be a central consideration in all juvenile court proceedings. The national Juvenile Restitution Initiative was adopted by many jurisdictions and was deemed to be very successful. Thus accountability became a theme welcomed into the policy framework of the juvenile court.

The demand for integrating this concept became so popular that the Office of Juvenile Justice Delinquency and Prevention responded with the Restitution Training and Technical Assistance Initiative to assist states and jurisdictions to incorporate restitution in their statutes and dispositional repertoire. By 1990, virtually every juvenile court in every state had in place a mechanism for ordering and ensuring fulfillment of restitution requirements.

However, as restitution was taking hold in the late 70's and early 80's, so too was serious juvenile crime. This trend prompted juvenile justice leaders to recognize that not only was accountability a critical component of the juvenile court proceedings, but so was community protection. The Office then sponsored the work of Maloney, Armstrong, Romig, and later Bazemore to develop a concept that became known as the Balanced Approach to Juvenile Justice. The Balanced Approach is a policy that calls for the juvenile court to build community protection, accountability, and competency development measures into every dispositional order. With the accountability principle defined as paying back, the Balanced Approach movement interfaced harmoniously with an effort building across the country known as Restorative Justice. In Restorative Justice, the victim is viewed as a primary client of the justice system, their participation is welcomed throughout the process and repairing the harm they suffered is a primary consideration during court proceedings.

Deschutes County, Oregon was the first jurisdiction in the country to adopt Balanced and Restorative Justice as the purpose and mission of its juvenile justice system. Following Deschutes County, legislative assemblies across the country took action to transform the juvenile justice system from a one-dimensional "best interests of the child" court to a three-dimensional "best interests of the community, the victim, and the offender" court.

With demand building from states to promulgate the model as a new mission for the nation's juvenile justice system, OJJDP developed the Balanced and Restorative Justice Project directed by Dr. Gordon Bazemore of Florida Atlantic University. From 1990 to 2000 some 23 states changed the purpose clause of their juvenile code to align with the principles of the Balanced Approach. All 50 states currently apply the principles of BARJ programmatically. Of special note is the state of Illinois, where the legislative assembly adopted the Balanced Approach as its new mission virtually 100 years after the state's historical action in establishing the first juvenile court.

In policy and in practice, the nation's juvenile justice system is now a system dedicated to repairing harm suffered by victims, building safer communities and developing the capabilities of young offenders to enable them to become productive, responsible citizens. It would be inaccurate, therefore, to regard the current juvenile court in America as a court restricted to the best interests of the child.

### **Applying Balanced and Restorative Justice to Practice**

Beyond being a philosophical foundation for the juvenile justice system, BARJ can be a very informative guide for daily practice. Whether planning for a diversion contract, a disposition, a correctional commitment or re-entry, BARJ guides the planner to prescribe conditions that hold

the offender accountable to victim and community, invoke measures to protect the public from future crimes, and build competencies to help the youth develop internal discipline and reduce acts of recidivism.

The following depicts what BARJ seeks to achieve with each participant in the justice process.

*BARJ: WHAT DOES IT LOOK LIKE?*

<i>CRIME VICTIMS</i>	
Feel satisfied with the justice process.	Receive support, assistance, compensation, information, and services.
Receive restitution and or other reparation from the offender.	Are involved and are encouraged to give input at all points in the system and direct input into how the offender will repair the harm done.
Have the opportunity to face the offenders and tell their story to offenders and others, if they desire.	Provide guidance and consultation to juvenile justice professionals on planning and advisory groups.

<i>OFFENDERS</i>	
Complete restitution to their victims.	Provide meaningful service to repay the debt to their communities.
Must fact the personal harm caused by their crimes by participating in victim offender mediation, if the victim is willing or through other victim awareness process.	Complete work experience and active and productive tasks which increase skills and improve the community.
Are monitored by community adults as well as juvenile justice providers and are supervised to the greatest extent possible in the community.	Improve decision-making skills and have opportunities to help others.

<i>CITIZENS, FAMILY, AND COMMUNITY GROUPS</i>	
Are involved to the greatest extent possible in holding offenders accountable, rehabilitation, and community safety initiatives.	Work with offenders on local community service projects.
Provide support to victims.	Provide support to offenders as mentors, employers, and advocates.
Provide work for offenders to pay restitution to victims and service opportunities that provide skills and also allow offenders to make meaningful contributions to the quality of community life.	Community groups assist family to support the offender in obligation to repair the harm and increase competencies.
Play an advisory role to courts and corrections and or play an active role in disposition through one or more neighborhood sanctioning processes.	

The Balanced and Restorative Justice movement is now approaching the end of its first decade and has provided a valuable platform upon which to build juvenile justice reform efforts. State legislatures have utilized BARG to establish new purpose clauses for state juvenile codes. BARJ has found its way into mission statement for agencies and many funding sources use BARJ as criteria in judging requests for proposals. Virtually every state in the country has featured BARJ at statewide training conferences. The concept has become one of the most popular policies in the nation's juvenile justice system.

It is time to develop a methodology that can be utilized by juvenile justice systems nationwide to determine the impact of balanced and restorative justice. BARJ project leaders have been in discussion with leaders from other system stakeholders such as: the judiciary, prosecution, probation, victim services, law enforcement, and defense bar to gauge the readiness of these systems to support a common set of benchmarks that will be informative and useful for all elements of the juvenile justice system. This discussion has been encouraging and at the leadership level there is widespread support for the development of a common set of benchmarks.

The proposed strategy for this work is to involve national leadership organizations in arriving at a core set of measurements that will serve as valuable indicators of performance. Next these organizations will jointly endorse the benchmarks, develop a demonstration project with a select number of jurisdictions to pilot the measurements, publish the result of the demonstration project and promote the adoption of the benchmarks through-out juvenile justice systems nationwide.

#### Measurement to Consider:

When contemplating which measurements the balanced approach mission can be an informative guide. This mission has three foci: 1) furthering public safety; 2) holding offenders accountable to victims and community; and 3) developing the skills of offenders to reduce future delinquency. Restorative justice principles that encourage the justice system to treat victims as an important customer of the justice system, can further guide the discussion. The recent development of community justice precepts that increase community resiliency to criminal activity may serve to round out the measurement goals.

The American Probation and Parole Association has convened round tables, offered featured publications, and arranged for presentations at annual conferences to bring focus to the primary outcomes that should be sought in community justice efforts. The set of outcomes developed by the APPA also appear to transcend the beliefs of balanced and restorative justice.

The APPA outcomes are straightforward, comprehensive, and hold the hope of widespread understanding. Simply stated they call for the justice system to focus on:

- Repairing Harm
- Reducing Risk
- Building Communities

These outcomes in turn can guide us toward a set of benchmarks to gauge the system's performance towards each outcome.

The benchmarks then form a system “report card” with tangible measurement aligned with each outcome. When contemplating which benchmarks to measure we should adhere to the following standards.

### *Benchmark Standards*

- Must be measurable as evidence by instruments deemed to reflect reasonable scientific certainty.
- Shall represent the broadest scale investment of the citizenry, the juvenile justice system and crime victims.
- While concise in number, should cover the broadest spectrum of quality of performance indicators.
- Can predicted to maintain long term (at least a decade) of high public interest.
- Have the ability to reflect positive gains. Whenever possible the benchmarks should indicate the communities achievement toward positive outcomes versus just reduction of negative circumstances.

Given these values the benchmark format being discussed is the following:

#### ***Repairing Harm***

- The system will measure the amount of restitution ordered or agreed upon and will report on the percentage of the restitution paid.
- The system will measure the amount of community work service ordered and will report the percentage of work fulfilled and the value of that work.
- The system will survey crime victims to determine the degree to which they were extended their legal right to participate in the process and will measure their expression of satisfaction with the process.

#### ***Reducing Crime***

- The system will measure the re-offense rate of offenders while under court supervision and will measure the re-offense rate within one year following completion of a disposition.
- The system will measure the number of juvenile offenders who are convicted of crimes as adult between their 18<sup>th</sup> and 21<sup>st</sup> years.
- The system will measure the performances of youth in the juvenile justice in school and will report on the percentage of youth that earn a high school diploma or equivalency certificate

### ***Building Community***

- The system will measure the number of people who serve as volunteers and will measure the value of the hours served according to relevant pay scales for the duties served.

In an efficient but comprehensive manner these benchmarks appear to answer the core questions that we hear from our public:

1. *Are victims of crime receiving justice?*
2. *Are offenders being held accountable for their crimes?*
3. *Is public safety being furthered by the justice system?*

### **Efforts to Date**

Several jurisdictions across the county have invested time and many to develop a benchmark reporting system for the juvenile justice system. Two places that have dedicated significant effort in this regard are the State of Pennsylvania and the County of Deschutes both jurisdiction have adopted a core set of benchmarks and a management information system to track performance. Both jurisdiction efforts to date are reflected in the attachment and may warrant review as a starting point.

#### **Pennsylvania Benchmarks**

(These measures are taken from the “ Measuring Performance of Balanced and Restorative Justice in Pennsylvania Workshop to Develop Intermediate Outcomes”.)

#### ***Accountability***

1. Juvenile Courts will consider equally the juvenile and his/her parent(s), the victim and his/her parents, and the community.
2. Ensure that the juvenile and his/her parent(s) understand the impact of the juvenile’s crime.
3. Provide opportunities for victim and community input in juvenile court cases.
4. Ensure that the juvenile takes specific action to repair the harm and completes juvenile justice sanctions.
5. Assist parent(s) and the community to help juveniles fulfill their obligations and make reparation.

Progress toward these goals may be measured through the documentation of the following intermediate outcomes:

- 1) Compliance with the Victims of Juvenile Crime Bill of Rights, as measured by an affidavit signed annually by the Chief Juvenile Probation Officer in each county indicating that the juvenile court is in compliance.
- 2) Participation by all youth adjudicated delinquent in a victim/community awareness course or its equivalent, as measured by the number of youth ordered to participate, the number who participate in the course and the number who satisfactorily complete the course.
- 3) Completion of negotiated or court ordered community service and restitution, as measured by the number of hours of community service and amount of restitution ordered and completed.
- 4) Parental participation in the fulfillment of juvenile court-ordered obligations, as measured by the number and proportion of parents fulfilling court-ordered obligations.

### ***Competency Development:***

The goal of the Pennsylvania Juvenile Justice System is to ensure that youth who come within the jurisdiction of the system leave more capable of being responsible and productive community members. To reach this goal, they commit to:

1. Develop skill-building opportunity for youth to address deficits.
2. Provide competency development for social adjustment.
3. Provide opportunities for youth to build their talents (address assets).

Progress toward this goal may be measured through the documentation of the following intermediate outcomes:

- 1) Development of knowledge/skill building competencies (these may include, but are not limited to interventions designed to address deficits in academics, self-sufficiency, vocational training, and job skills), as measured by the enrollment/participation, attendance, and successful completion of youth in specified programs.
- 2) Development of talent building competencies (these may include, but are not limited to interventions designed to address individual assets in the arts, athletics, recreation, faith and religion, personal growth, and other self-enhancing activities), as measured by the enrollment/participation, attendance, and successful completion of youth in specified programs.
- 3) Social adjustment competencies (these may include, but are not limited to interventions designed to enhance cognitive, healthy lifestyle, and socialization skills), as measured by the enrollment/participation, attendance and successful completion of youth in specified programs.

### ***Community Protection (Public Safety):***

The critical goal of the Pennsylvania's Juvenile Justice System in this area is to assure that juveniles under the court's jurisdiction will be crime free. To achieve this goal juvenile courts will work in partnership with the communities to supervise, monitor and successfully integrate offenders into the community.

Progress toward this goal may be measured through the documentation of the following processes or intermediate outcomes addressing community protection:

- 1) Meaningful (face to face) juvenile court contacts with the juvenile that occur in the community, as measured by the number (and proportion) of face-to-face contacts per week with the court staff (or others working on behalf of the juvenile court) that occur in the youth's home, school, work-place, or other community setting.
- 2) Recidivism by juvenile court-supervised youth, as measured by the number (and proportion) of juveniles re-adjudicated on a felony or misdemeanor offense while under juvenile court supervision.
- 3) Probation violations, as measured by the number (and proportion) of youth who violated the conditions of their probation, the nature of those violations, and the sanctions imposed by the juvenile court.
- 4) Involvement by the juvenile court-supervised youth in weekend or weekday afternoon (i.e., between the hours of 3 to 6 p.m.) interventions or programs, as measured by the number and percentage of court-involved youth enrolled in those programs and the attendance rate of those juveniles.

### **Summary**

Legislative bodies in many states and citizens through the initiative petition process have expressed a lack of confidence in the juvenile justice system evidenced by transference of more and more juvenile offenders to adult courts. At least in part it can be fair to conclude that this loss of confidence has to do with the public having little appreciation for the accomplishment that do happen in the juvenile court. Perhaps that is because the juvenile court does not demonstrate on a national level what outcomes are being experienced.

This paper calls for the development of a nationwide system of measurements around a core set of outcomes that could not only demonstrate but cause significant positive impact by the juvenile justice system.